

RESOLUTION NO. 05032022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT, PEND OREILLE COUNTY, WASHINGTON, REPEALING RESOLUTION NO. 1192018 RELATING TO THE CITY'S PUBLIC RECORDS POLICY, ADOPTING AN UPDATED PUBLIC RECORDS POLICY, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the City of Newport (the "City") is a duly incorporated and existing code city by virtue of the Constitution and the laws of the state of Washington; and,

WHEREAS, the Newport City Council (the "Council") previously approved a public records policy by its approval of Resolution No. 1192018; and

WHEREAS, the Council desires to approve an updated public records policy that is in compliance with current Washington State law and provides for increased clarity and ease of use by City staff.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEWPORT, WASHINGTON, as follows:

**Section 1.** City of Newport Resolution No. 1192018 is hereby repealed in its entirety.

**Section 2.** The Council hereby adopts the "City of Newport Public Records Policy," attached hereto as Exhibit A.

**Section 3.** This Resolution shall take effect and be in full force from the date of passage.

PASSED AND APPROVED this 2<sup>nd</sup> day of May, 2022.

By   
Keith Campbell, Mayor

Attest:

  
\_\_\_\_\_  
Nickole North, City Clerk/Treasurer

Approved as to form:

  
\_\_\_\_\_  
City Attorney

## EXHIBIT A

### CITY OF NEWPORT PUBLIC RECORDS POLICY

#### I. AUTHORITY AND PURPOSE

- a. The Washington State Public Records Act (the "PRA"), Chapter 42.56 Revised Code of Washington (RCW), requires each government agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The PRA defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. In addition, the PRA requires each agency to set forth "for informational purposes" every law, in addition to the PRA, that exempts or prohibits the disclosure of public records held by that agency.
- b. The purpose of this City of Newport Public Records Policy ("Policy") is to establish the procedures the City of Newport (the "City") will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the City and establish processes for both requestors and the City staff that are designed to best assist members of the public in obtaining such access.
- c. The purpose of the PRA is to provide the public full access to information concerning the conduct of government, liberally construing the PRA while narrowly applying its exemptions to promote the public policy set forth in RCW 42.56.030 and assuring that the public interest is fully protected. In carrying out its responsibilities under the act, the City will be guided by the provisions of the PRA describing its purposes and interpretation.

#### II. ADOPTION OF MODEL RULES

The City adopts and shall follow the procedures set forth in WAC 44-14, Public Records Act – Model Rules, for the processing of all public records requests, as generally summarized herein.

#### III. AGENCY DESCRIPTION--CONTACT INFORMATION--PUBLIC RECORDS OFFICER

- a. The City of Newport is a local city government providing a vast array of services. Newport City Hall is located at 200 South Washington Avenue, Newport, WA 99156.
- b. Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form, or by letter, fax, or email addressed to the City's Public Records Officer ("PRO"). The City's PRO may be contacted:

- In person or via mailed letter at:  
200 South Washington Avenue, Newport, WA 99156
  - By phone: (509) 447-5611
  - By fax: (509) 447-2226
  - By email: [cityofnewport@newport-wa.org](mailto:cityofnewport@newport-wa.org)
- c. Requesters who seek to make a request in-person at City Hall will be asked to submit their request in writing in accordance with subsection (b) above (which can include being provided a copy of the City's request form and being asked to write down their request), unless the requester has a disability or significant difficulty in writing down their request, in which case the PRO may accept a verbal request that is documented by the PRO in writing and confirmed with the requester.
- d. The PRO will oversee compliance with the PRA but another City staff member may process the request. Therefore, when this Policy refers to the PRO, such term shall be interpreted to also include the PRO's designee.
- e. The PRO and the City will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the City.

#### IV. FEES FOR PUBLIC RECORDS

- a. There is no fee to inspect City records.
- b. The City has determined that tracking and charging actual costs for the production of public records is unduly burdensome and adopts the following fee schedule in RCW 42.56.120:
- i. Costs for Copies: Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of City equipment to photocopy public records.
  - ii. Costs for Scanning: The City may charge for scanning existing City paper or other non-electronic records at the rate of ten cents per page for public records scanned into an electronic format or for the use of City equipment to scan the records.
  - iii. Costs for Electronic Records: If the City provides electronic records on an external storage device, it may charge the actual cost for the device. There will be no charge for emailing electronic records to a requester, uploading

electronic records to an online cloud platform, et cetera, unless another cost applies, such as a scanning fee.

- iv. Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of City equipment to send the records electronically;
- v. Costs of Storage Media; Costs of Mailing: The actual cost of any digital storage media or device provided by the City, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge incurred by the City to produce records.
- c. Charges may be combined to the extent that more than one type of charge applies to records produced in response to a particular request. The City shall produce records in the most efficient method available to it.
- d. The City has determined that the administrative cost to charge fees for amounts less than Three Dollars (\$3.00) exceeds the actual fees. The City therefore shall waive fees for public records request fulfillments or individual records installments in which the fee is less than Three Dollars (\$3.00).
- e. Deposits. Before beginning to make the copies, the PRO may require a deposit of up to ten percent (10%) of the estimated costs of copying all the records selected by the requestor. The PRO may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The City will not charge sales tax when it makes copies of public records.
- f. Payment. Payment may be made by cash, check, money order or credit card.

## V. AVAILABILITY OF PUBLIC RECORDS

- a. Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the City of Newport, Monday through Friday, 8:30 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the offices of the City of Newport.
- b. Organization of records. The City finds that maintaining an index as provided in RCW 42.56.070(4) for use by the public would be unduly burdensome and would interfere with agency operations given the high volume, various locations, and types of public records received, generated, and otherwise acquired by the City. RCW 42.56.070(4) and Resolution No. 05032022. Notwithstanding the foregoing, the City will maintain its records in a reasonably organized manner and shall take reasonable actions to protect records from damage and disorganization. In accordance with WAC 44-14-03004, the City will not allow a requestor to take original City records out of City Hall (or out of the office in which the record is being held, if not at City Hall).
- c. Making a request for public records.

- i. Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form, which is available at City Hall, or by letter or email addressed to the City's PRO. Requests are preferred to be made in writing via letter or email and are requested to include the following information:
  - Name of requestor;
  - Address of requestor;
  - Other contact information, including telephone number and any e-mail address;
  - Identification of the public records adequate for the public records officer or designee to locate the records; and
  - The date and time of the request.

At the very least, requests shall include a means to communicate in writing with the requestor (e.g., valid mailing address or email address) and a request for identifiable records.

- ii. If the requestor wishes to have copies of the records made instead of simply inspecting them, the requestor should so indicate and make arrangements to pay for copies of the records or a deposit.
- iii. As detailed above, the PRO shall accept requests for public records made in person that contain at least 1) a means of communication in writing with the requester, e.g., valid mailing address or email address; and 2) a request for identifiable records. When the PRO accepts such a request, he or she will promptly document receipt of the information (including data and time received) and the substance of the request on the City's public records request form.

#### IV. PROCESSING OF PUBLIC RECORDS REQUESTS—GENERAL

- a. Providing "fullest assistance." The City is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The PRO will process requests in the order allowing the most requests to be processed in the most efficient manner.
- b. Acknowledging receipt of request. Within five (5) business days of receipt of the request, not including the day the request was received as provided by RCW 1.12.040, the PRO will do one or more of the following:
  - Make the records available for inspection or copying;

- If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
  - Acknowledge that the request has been received and provide a reasonable estimate of when records will be available; or
  - If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone and the PRO shall document such clarification in the PRR's file. The PRO may revise the estimate of when records will be available; or
  - Deny the request, withhold some records or redact the records. The City will note the reasons for denying, withholding or redacting any records.
- c. Consequences of failure to respond. If the City does not respond in writing within five (5) business days of receipt of the request for disclosure, the requestor should consider contacting the PRO to determine the reason for the failure to respond.
- d. Requesting clarification. At the time of the City's initial response, or subsequent to the City's initial response, the City may require the requestor to clarify the request in order to provide the City with information sufficient to allow the City to determine which records are being requested and whether such records relating to the request exist. If the requestor fails to respond to a City request to clarify the request within thirty (30) days, and the entire request is unclear, the City may consider the request abandoned. Otherwise, the City must respond to those portions of the request that are clear. If the City considers the request abandoned, it shall notify the requestor that the request is closed.
- e. Preserving requested records. If a requested record is scheduled shortly for destruction under the City's records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the City can destroy the record(s) in accordance with the retention schedule.
- f. Searching for records. The City will conduct a reasonable search for responsive records. The PRO will help determine where responsive records are likely to be located. After the records are located, the PRO should take reasonable steps to narrow down the number of records assembled to those that are responsive. The City will not "bury" a requester with non-responsive records. However, the PRO is allowed to provide arguably, but not clearly, responsive records to allow the requester to select the ones he or she wants, particularly if the requester is unable or unwilling to help narrow the scope of the documents being sought.
- g. Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the PRO may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it

possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

- h. Records exempt from disclosure. Under applicable State and/or federal law, some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt from disclosure and should be withheld, the PRO will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the PRO will redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted.
- i. No duty to create records. The City is not obligated to create a new record to satisfy a records request; however, the City may, in its discretion, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.
- j. Inspection of records.
  - i. Consistent with other demands, the City shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy, subject to the fees detailed in Section IV.
  - ii. The requestor must claim or review the assembled records within thirty (30) days of the City notifying him or her that the records are available for inspection or copying. The City will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the City to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the City may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.
- k. Providing copies of records. After inspection is complete, the PRO shall make the requested copies or arrange for copying.
- l. Providing records in installments. When the request is for a large number of records, the PRO will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the PRO may stop searching for the remaining records, notify the requestor, and close the request.

- m. Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the PRO will notify the requestor that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection.
- n. Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the PRO will close the request and indicate to the requestor that the City has closed the request.
- o. Later discovered documents. If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

## V. EXEMPTIONS

- a. The PRA provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware there are additional exemptions outside of the PRA, that restrict the availability of some documents held by the City for inspection and copying. For a comprehensive list of exemptions in the PRA and in other statutes outside of the PRA, the City shall consult both of the following, along with staying abreast on recent legislative changes to the PRA related to exemptions:
  - i. The most current list maintained by the Municipal Research Services Center (MRSC) at [Public Records Act for Washington Cities, Counties, and Special Purpose Districts \(mrsc.org\)](https://mrsc.org/getmedia/796a2402-9ad4-4bde-a221-0d6814ef6edc/Public-Records-Act.pdf.aspx?ext=.pdf) – located at <https://mrsc.org/getmedia/796a2402-9ad4-4bde-a221-0d6814ef6edc/Public-Records-Act.pdf.aspx?ext=.pdf>; and
  - ii. The most current [Washington State Attorney General’s Office Open Government Resource Manual](http://www.atg.wa.gov/open-government-resource-manual) - located at <http://www.atg.wa.gov/open-government-resource-manual>
- b. The City of Newport is prohibited by statute from disclosing lists of individuals for commercial purposes. See RCW 42.56.070(8).

## VI. REVIEW OF DENIALS OF PUBLIC RECORDS

- a. Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the PRO for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the PRO denying the request.
- b. Consideration of petition for review. The PRO shall promptly provide the petition and any other relevant information to the City Attorney. The City Attorney will



promptly consider the petition and either affirm or reverse the denial within two (2) business days following the City's receipt of the petition, or within such other time as the City and the requestor mutually agree to.

- c. Judicial review. Any person may obtain court review of denials of public records request pursuant to law at the conclusion of two (2) business days after the initial denial regardless of any internal administrative appeal.